

TTAB

Attorney Docket No. 43471/33486

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

CERTIFICATE OF EXPRESS MAILING UNDER 37 C.F.R. § 1.10

I hereby certify that this correspondence and the documents referred to as enclosed therein are being deposited with the United States Postal Service on Feb 11 2003, in an envelope as 'Express Mail Post Office To Addressee' Mailing Label Number EL49649228215 addressed to: BOX TTAB FEE, Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513.

Kay R. Sherman
Kay R. Sherman

VICI, LLC

Petitioner,

v.

BREAKAWAY FASHIONS, INC

Respondent.

Cancellation No. _____

Directed To: Registration No. 1,352,810
Issued: August 6, 1985



BOX TTAB FEE
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513

02-11-2003

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #7C

PETITION TO CANCEL

Petitioner, Vici, LLC, pursuant to 15 U.S.C. §§1064 and 1068, and 37 CFR §2.112, hereby files its Petition to Cancel U.S. Registration No. 1,352,810. In support thereof, Petitioner states as follows:

1. U.S. Trademark Office records indicate that Breakaway Fashions, Inc. ("Respondent") is the owner of U.S. Registration No. 1,352,810 ("the Registration") registered August 6, 1985 for the mark VIDI VICI for leather and imitations of leather, handbags, umbrellas and parasols in International Class 18.

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2. U.S. Trademark Office records indicate that Respondent was a New York corporation, with an address of 125 Orchard Street, New York, NY 10002.

3. On information and belief, Respondent was dissolved as a corporate entity and is no longer doing business in connection with the mark shown in the Registration.

4. Petitioner has a bona fide intent to use the mark VICI in connection with sports duffel bags, and clothing for men, women and children and has filed an application for registration of said mark in connection with said goods with the U. S. Trademark Office, Serial No. 78/131,081.

5. Petitioner's Serial No. 78/131,081 has been refused registration on the basis of the Registration.

6. On information and belief, Respondent has never used the mark shown in the Registration, or has discontinued use of the mark with the intent not to resume use of the mark.

7. Petitioner is or will be damaged by the continued registration of Registration No. 1,352,810 in that the U.S. Trademark Office has refused to register Petitioner's Mark on the basis of the Registration.

8. By reason of the foregoing, the Registration should cancelled.

WHEREFORE, Petitioner prays that this Petition to Cancel be granted and the Registration be cancelled.

A check in the amount of \$300.00 is enclosed herewith. This is believed to be the correct fee, but if it is not, please be hereby authorized to debit our Account 20-0823 or credit any excess thereto.

Respectfully Submitted,

Thompson Coburn LLP

By: _____

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